

REMARKS

Claims 1 - 21 are pending in this application. The allowance of claims 15 - 17 is gratefully acknowledged. In view of the following remarks, it is respectfully submitted that all of the pending claims are allowable.

Claims 1, 2, 4 - 6, 9, 11, 18 and 20 stand rejected under 35 U.S.C. § 103 as obvious over Storz-Irion (PCT Publication No. WO 01/80736 A1) in view of Thompson (U.S. Patent No. 5,662,654). The Examiner stated, in support of the rejection, that Storz-Irion shows a device as claimed except for the anchoring elements which are quite different in Storz-Irion as compared to those recited in the claims. The Examiner further stated that Thompson shows anchoring members as claimed and that it would have been obvious to have substituted the anchoring elements of Thompson for those of Storz-Irion to arrive at the claimed invention.

Claim 1 is directed to a suturing device which comprises device for suturing an opening in an internal organ of a patient, comprising “a plurality of anchoring members received within [a] first catheter, each of the anchoring members including a shaft extending from *a tissue penetrating distal tip* to a suture receiving proximal end and a gripping arm moveable between an insertion configuration in which the gripping arm is folded against the shaft and a gripping configuration in which the gripping member extends away from the shaft” and “a driving member extending through the first catheter to a proximal end thereof, wherein advancing the driving member distally into the first catheter advances the anchoring members distally through the first catheter to drive a distal-most one of the anchoring members out of the first catheter to anchor in tissue” in combination with “*a length of suture extending between the suture receiving proximal ends of the anchor members.*”

As the Examiner has noted, the circular securing elements 6 in Storz-Irion do not resemble the anchor members of the Applicant's invention. (See 9/8/04 Office Action, ¶ 1). The securing elements 6 in Storz-Irion lack several elements of the Applicant's claimed anchor

members, including “suture receiving proximal ends.” Further, as the Examiner has noted, the securing elements 6 in Storz-Irion fix-position the thread 5. (Id.). The fix-positioning occurs when a securing element 6 is forced into an opening in tissue in which thread 5 has previously been deposited, thereby securing the thread in the opening. (See Storz-Irion, Fig. 2). This fix positioning is inconsistent with the threading of “a length of suture...between the suture receiving proximal ends of the anchor members” as recited in claim 1. That is, if the suture is not pinned between the distal end of the Storz-Irion anchor and the tissue, the thread will not be fixed in place and the anchors will not operate as desired.

The Examiner has further stated that Fig. 3 of Storz-Irion shows a suture extending through each anchoring member, through both the distal and proximal ends of each anchoring member 6. (See 9/8/04 Office Action, ¶ 17). Even if that were taken to be true, Storz-Irion still fails to show anchoring members with “a length of suture extending between the suture receiving proximal ends of the anchoring members.” As seen in Fig. 3 of Storz-Irion, the thread 5 passes through, but is not fixed to each securing element 6. The description of Fig. 3 states that “[t]he securing elements 6 can [be]...loose with the thread 5 (FIG. 3)...” (See Storz-Irion, ¶ [0029]). Thus, the securing elements 6 are not fixed to the thread 5. The arrangement of securing elements 6 in Fig. 3 presents a similar problem as the arrangement disclosed in Fig. 2. That is, if the securing element 6 is not deposited deep enough in the tissue so that both openings of a hole with the thread 5 therethrough are covered by tissue, the thread 5 will not be fixed in place, and the securing elements 6 will not operate as desired. Furthermore, the thread 5 does not link the proximal ends of the securing elements. As seen in Figs. 3 and 4 of Storz-Irion, the thread 5 links a proximal end of the securing element to a distal end of the securing element therebehind. Thus, it is respectfully submitted that Storz-Irion not only does not contemplate connecting the anchoring members with “a length of suture extending between the suture receiving proximal ends of the anchoring members,” as recited in claim 1, it actually teaches away from such an arrangement.

The Examiner cites Thompson to cure these deficiencies of Storz-Irion. However, it is

respectfully submitted that Thompson is insufficient to cure these deficiencies as Thompson discloses bone anchors which are for use individually with only one bone anchor per length of suture. That is, Thompson states that once a single bone anchor 9 has been deposited into a selected portion of bone 12, a length of suture 10 attached thereto is tied around a piece of tissue to lift the tissue to a desired position relative to the bone 12. (See Thompson, col. 15, lines 23-34; Fig. 2). It is respectfully submitted that Thompson neither discloses nor suggests the use of multiple bone anchors along a length of suture and, due to the rigid nature of the bone, such a coupling of multiple bone anchors would serve no purpose. In addition, it is respectfully submitted that Thompson shows bone anchors with blunt tips. The bone anchors are inserted into preformed bores 13 and do not need to penetrate any tissue. (See Thompson, col. 7, lines 31-32). Thus, it is respectfully submitted that Thompson also fails to show or suggest an anchoring member comprising “a tissue penetrating distal tip,” as recited in claim 1.

The Examiner has stated that embodiments of Thompson’s clips are capable of piercing both bone and flesh tissue, and anchoring in bone tissue. (See 9/8/04 Office Action, ¶ 18). Even if the Examiner’s reading of Thompson were taken to be true, Thompson does not disclose or suggest that the clips may be used for “suturing an opening in an internal organ of a patient,” as recited in claim 1. In fact, the main thrust of Thompson is a method of treating stress urinary incontinence by lifting a urethra 2 from a depressed position using the suture 10 tied around the single bone anchor 9, after it has been affixed to the pubic bone 12. (See Thompson, col. 7, lines 24-30). At no point does Thompson disclose or suggest using the bone anchor 9 “for suturing an opening in an internal organ of a patient.” Therefore, it is respectfully submitted that Thompson is insufficient to cure the deficiencies of Storz-Irion and claim 1 is not rendered obvious by Storz-Irion and Thompson either taken alone or in combination.

Because claims 2, 4 - 6, 9 and 11 depend from and, therefore, include all of the limitations of claim 1, it is respectfully submitted that these claims are also allowable. Furthermore, it is respectfully submitted that independent claim 18 which is directed to a device for suturing tissue within a body of a patient and includes substantially the same limitations as

independent claim 1, including “a tissue penetrating distal tip” and “a length of suture extending between the suture receiving proximal ends of the anchor members, is allowable for the reasons discussed above with respect to claim 1. Because claims 19 - 21 depend from and, therefore, include all of the limitations of claim 18, it is respectfully submitted that these claims are also allowable.

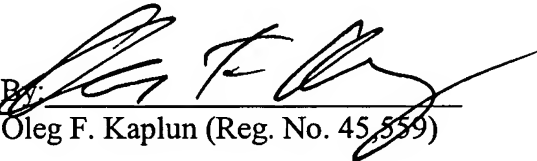
Claims 3, 7, 8, 10 and 12 - 14, 19 and 21 stand objected to as dependent upon rejected base claims. In view of the above remarks concerning the allowability of claim 1 from which these claims depend, it is respectfully submitted that these claims are in condition for allowance.

Specifically, similarly to claim 1, claim 18 recites a device for suturing tissue within a body of a patient, comprising “a plurality of anchoring members received within the first catheter, each of the anchoring members including a shaft extending from *a tissue penetrating distal tip* to a suture receiving proximal end and a gripping arm moveably coupled thereto” and “a driving member extending through the first catheter to a proximal end thereof, wherein advancing the driving member distally into the first catheter advances the anchoring members distally through the first catheter to drive a distal-most one of the anchoring members out of the first catheter to anchor in tissue, each of the anchoring members including extending means for deploying the gripping arm of the corresponding anchoring member from an insertion configuration in which the gripping arm is folded against the shaft to a gripping configuration in which the gripping member extends away from the shaft when the corresponding anchoring member is deployed from the first catheter into the tissue” in combination with “*a length of suture extending between the suture receiving proximal ends of the anchor members.*”

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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